

ARTICLE 14
MERIT PROMOTIONS, VACANCIES, DETAILS, REASSIGNMENT,
AND INTERGOVERNMENTAL PERSONNEL ACT

Section 1: Purpose and Policy.

The parties agree that the purpose and intent of the provisions contained in this article are to ensure that merit promotion principles are applied in a consistent manner with equity to all employees in accordance with Indian Preference requirements and without regard to political, religious, or labor organization affiliation or non affiliation, marital status, race, color, gender, sexual orientation, national origin, disabling condition, or age, and shall be based solely on job related criteria. This article sets forth the merit promotion system, policies, and procedures applicable to bargaining unit positions in the IHS.

Section 2: Definitions.

For the purpose of this article, the definitions contained in the Headquarters Merit Promotion Plan shall be incorporated as part of this Agreement.

Section 3: Applicability of Competitive Procedures.

- a. Promotions. Any selection for promotion must be made on a competitive basis unless it is excluded by Section 4 of this article.
- b. Reassignments and/or Changes to lower Grade. Any selection to a position that provides specialized experience that the EMPLOYEE does not already have and is required for subsequent promotion to a designated higher grade position and/or to a position with known promotional potential must be made on a competitive basis.
- c. Details. Competitive procedures will be applicable to any selection for a detail of more than 120 days to a higher graded position with known promotional potential.
- d. Training. Competitive procedures will be applicable to selections for training, when eligibility for promotion to a particular position depends on whether the EMPLOYEE has completed that training.
- e. Appointments. Competitive procedures apply to the transfer of a Federal EMPLOYEE or to the reinstatement of a former Federal EMPLOYEE to a position above the highest grade previously held permanently or to a position at or below that grade if the position has promotional potential above the highest grade previously held permanently. The EMPLOYEE

must not have been demoted or separated for personal cause from the higher grade(s) and, when competitive procedures apply, must be among the best qualified with eligible IHS EMPLOYEES to be eligible for appointment. To the extent feasible, the same qualification standards and the same methods of evaluation will be applied to both IHS EMPLOYEES and persons being considered for appointment to higher graded positions above the highest grade previously held permanently by transfer or reassignment. If it is determined that these methods are not feasible, the parties will meet and confer on the methods to be utilized.

Section 4: Noncompetitive Actions.

- a. Promotions. The following promotions may be taken on a noncompetitive basis unless otherwise provided:
1. Promotion of the incumbent of a position that is reclassified at a higher grade due to the accretion of additional duties and responsibilities in accordance with Indian Preference requirements. To be eligible for a non-competitive promotion in this situation the employee must have continued to perform the same basic function, and the EMPLOYEES former position must be absorbed administratively into the new position.
 2. Promotion of an incumbent or an individual entitled to reemployment rights to a position that is reclassified to a higher grade without significant change in duties or responsibilities either on the basis of a new classification standard or as the result of correction of an original classification error. When the incumbent of the upgraded position meets the legal requirements and qualification standards for promotion to the higher grade, the incumbent will be promoted.
 3. Promotion of an EMPLOYEE previously selected competitively for a lower grade of a career ladder.
 4. Promotion after receiving priority consideration.
 5. Promotion of an employee when directed by authorized authorities (i.e., judges, arbitrators, FLRA and other appropriate authorities).
 6. Agencies may noncompetitively reinstate, transfer, promote an EMPLOYEE up to the highest grade previously held on a permanent basis under career or career conditional appointment, provided the EMPLOYEE was not demoted or separated from that grade because of deficiencies in performance or "for cause" reasons.

7. Temporary promotions or details to a higher grade totaling 120 days or less during any 12-month period. However, any extension beyond 120 days must be made under competitive procedures.
8. Career ladder promotions following noncompetitive conversion of a cooperative education student in accordance with the requirements of applicable Office of Personnel Management (OPM) policy.
9. Promotion of an employee covered by an approved training agreement.
10. Promotion of an employee placed competitively in a trainee position.

b. Other Non-Competitive Actions

1. Transfer of an Indian Preference IHS EMPLOYEE to a position at the same or lower grade than the highest permanent grade held under a career or career conditional appointment provided the candidate was not demoted or separated for personal cause from a higher grade and also provided that the position does not have known promotional potential to a grade higher than the highest permanent grade held.
2. Reinstatement to the same career ladder position for which an EMPLOYEE was previously selected competitively or to a similar career ladder position having similar qualification requirements and having no greater known promotional potential.
3. A position change permitted by reduction-in-force regulations.
4. A position change permitted by Indian Preference requirements.

Section 5: Vacancy Announcements and Areas of Consideration.

- a. All actions requiring the use of competitive procedures under this Agreement will be announced and posted throughout the area of consideration.
- b. Prior to considering candidates from outside the bargaining unit, IHSHQE agrees to first consider internal candidates with due deference to Indian Preference and other required placement considerations.
- c. The area of consideration for a position vacancy is that area in which IHSHQE should reasonably expect to locate

enough sufficient number of eligible candidates. EMPLOYEES within an area of consideration will be given the opportunity to be considered by means of the vacancy announcement and application procedure. Unless otherwise indicated in this article, areas of consideration applicable when filling bargaining unit position vacancies is all positions shall be IHS Wide.

- d. Extending the Area of Consideration. When the area of consideration does not have or is not expected to produce an adequate number of eligible candidates for the selecting official's consideration, it may be extended by mutual agreement. The vacancy announcement will identify the extended area of consideration.

Section 6: Crediting Plans

- a. IHSHQE shall make a case-by-case determination as to whether releasing its crediting plans would give candidates an unfair advantage or compromise the utility of the selection process.
- b. If IHSHQE's decision is not to provide access to such crediting plans, that decision shall be sent to UNION in writing specifying the reasons and justifications for the decision.
- c. If IHSHQE's decision is to release such crediting plans, a copy will be forwarded to UNION, or it may be obtained in the Servicing Personnel Office.

Section 7: Interview Opportunity

All candidates whose names appear on the certificate of Merit Promotion Plan Panel shall be given equal opportunity to participate in interviews if any are given.

Section 8: Priority Consideration.

For the purposes of this article a priority consideration is the bona fide consideration for noncompetitive selection given to an EMPLOYEE on account of previous failure to properly consider the EMPLOYEE for selection because of procedural, regulatory, or program violation.

The following EMPLOYEES will receive priority consideration in accordance with the procedures set forth.

- a. Where the erroneous selection will allowed to stand, those employees who were not properly considered (as identified below) because of the violation will receive priority consideration. An EMPLOYEE is entitled to only one priority

consideration for noncompetitive promotion for each instance in which they were previously denied proper consideration.

1. Those excluded from a best qualified list.
 2. Those on an improperly established best qualified list.
- b. If the action taken to correct an erroneous promotion was to require that the position be vacated, employees who were not promoted or given proper consideration because of the violation (that is, employees in the best qualified group who were not selected or EMPLOYEES who should have been in this group but were not) will be considered for promotion to the vacated position before candidates are considered under a new promotion or other placement action.

Section 9: EMPLOYEE Information.

- a. EMPLOYEES are entitled to the following information upon request about vacancies filled under the competitive provisions of this article and for which they are/were under consideration.
1. The KSA's used in filling the vacancy;
 2. Whether they meet minimum requirements;
 3. What points were awarded to them, in each category, by the selection committee;
 4. What the best qualified list cutoff score was;
 5. Whether or not they were on the best qualified list,
 6. The name(s) of the employee(s) who were selected for the vacancy.

Section 10: UNION Review of Competitive Actions.

- a. UNION will be permitted to conduct audits of promotion packages for all bargaining unit positions, when it has reason to believe a discrepancy exists or when requested to do so by an EMPLOYEE.
- b. UNION will provide IHSQJE with a list of the Union Stewards who are responsible for conducting audits. Any changes to the list of designated stewards will be sent to IHSQJE in writing. The Steward designated to conduct the audit will not have been an applicant for the promotion package being audited.
- c. EMPLOYEES who believe they were improperly excluded from a best qualified list may request a review of the promotion

package through the UNION audit procedure described below.

- d. If the EMPLOYEE chooses to use the UNION procedure, they must make a written request to UNION within 15 working days after the selection is announced. UNION's request under subsection (a) above may be made within three (3) months after the selection is announced.
- e. The designated Official responsible for the package will make the pertinent records from that package available to the UNION auditor within seven (7) working days of the receipt of the written audit request. The auditor shall treat information confidentially.
- f. If an error is discovered that resulted in an EMPLOYEE'S improper exclusion from the best qualified list, the provisions of Section 8 of this Article will apply.

Section 11: Details.

- a. Definition - A detail is the temporary assignment of an employee to a different position or the same position for a specific period, with the EMPLOYEE returning to their regular duties at the end of the detail.
- b. Documentation of Detail - If an EMPLOYEE is detailed to a higher graded position for more than thirty (30) calendar days, but less than sixty (60) calendar days, the supervisor will submit a form SF-52, Request for Personnel Action, to the Servicing Personnel Office for processing and filing in the EMPLOYEE'S official personnel folders. If a position is still vacant at the end of sixty (60) calendar days, the detailed EMPLOYEE may be temporarily promoted to the higher graded position(s) as allowable within applicable laws and regulations, or IHSQHE may detail another employee into the vacant position or leave the position vacant.
- c. Duration of Detail.

IHSQHE is responsible for keeping details within the shortest practicable time limits and assuring that details do not compromise Indian Preference and the open competitive principle of the merit system.

- d. Details to Higher Graded Duties.

Details to higher graded positions or to positions with known promotional potential which require competition will be handled in accordance with this Article.

- e. Details to Lower Graded Duties.

Details to lower graded duties will not adversely affect the

EMPLOYEE'S ability to bid on any job for which they would have been eligible had they not been detailed to the lower level job.

f. Details UNION Officials.

Management will make reasonable effort to avoid placing a Union Steward on a detail that would prevent that official from performing their representational functions. IHSHQE agrees to notify UNION prior to placing any designated Union Steward on detail that would interfere with the Steward's normal representational duty.

Section 12: Reassignments.

When an EMPLOYEE is permanently reassigned to a different position, the EMPLOYEE will be given a reasonable period in which to become proficient if needed in their new duties. Notification to EMPLOYEES of reassignments shall be in writing and provided thirty (30) days in advance (if within the commuting area) and sixty (60) days in advance (if outside the commuting area). Reassignment within the Parklawn or Twinbrook buildings may occur with no less than five (5) days of advance notification.

Section 13: Assignment of Duties for Medical Reasons.

Upon request, IHSHQE will make every reasonable effort to assign limited duties to an EMPLOYEE who is temporarily unable to perform the full range of their assigned duties because of medical reasons. The IHSHQE may require sufficient medical documentation in support of the request.